IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

W.P.(C).No.798 of 2007(T)

PETITIONER:-

MESSERS.CHEMBRA PEAK ESTATES LIMITED,
HAVING ITS REGISTERED OFFICE AT # 2, 1ST FLOOR,
5TH MAIN, RMS LAYOUT (POST OFFICE ROAD),
SANJAYNAGAR, BANGALORE 560 094 REPRESENTED BY
ITS DIRECTOR L.K.MOHTA.

BY ADV. SRI.V.GIRI.

RESPONDENTS:-

1. STATE OF KERALA, REPRESENTED BY
   SECRETARY TO GOVERNMENT, REVENUE B DEPARTMENT,
   SECRETARIAT, TRIVANDRUM.

2. SECRETARY TO GOVERNMENT,
   INDUSTRIES DEPARTMENT, GOVT. OF KERALA,
   SECRETARIAT, TRIVANDRUM.

3. THE DISTRICT COLLECTOR, WAYANAD.

4. KERALA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION,
   KINFRA HOUSE ANNEXE,TC NO. 9/2585, ELANKAM GARDENS,
   VELLAYAMBALAM, THIRUVANANTHAPURAM.

5. UNION OF INDIA,
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
   MINISTRY OF FOOD PROCESSING INDUSTRIES,
   SOUTH BLOCK, NEW DELHI.

R1 TO R3 BY ADDITIONAL ADVOCATE GENERAL
SRI.VENGANNOOR CHANDRASEKHARAN NAIR.
R4 BY ADV.SRI.G.S.REGHUNATH (SR.)
R5 BY ADDL.C.G.S.C. SRI.D.PREM KAMATH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007, ALONG WITH W.P.(C).NO. 2313 OF 2007-A, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE COPY OF CERTIFICATE DATED 6.9.2005 ISSUED BY SENIOR LIAISON OFFICER OF COFFEE BOARD, KALPETTA.

EXT.P2 - TRUE COPY OF LETTER OF KINFRA DATED 28.9.2006.

EXT.P3 - TRUE COPY OF LETTER OF THE DISTRICT COLLECTOR DATED 15.11.2006.

EXT.P4 - TRUE COPY OF THE REPRESENTATION DATED 15.12.2006 SENT BY PETITIONER TO MINISTER FOR INDUSTRIES, MINISTER FOR REVENUE AND MANAGING DIRECTOR OF KINFRA.

EXT.P5 - TRUE COPY OF THE NEWS ITEM IN ECONOMIC TIMES DATED 16.12.2006.

EXT.P6 - TRUE COPY OF THE GOVERNMENT ORDER, G.O.(Rt).NO.1464/2006/ID DATED 28.12.2006.

EXT.P7 - TRUE COPY OF COMMUNICATION DATED 28.12.2006 FROM KINFRA TO DISTRICT COLLECTOR, WAYANAD.

EXT.P8 - TRUE COPY OF THE REPORT SUBMITTED BY THE COMMITTEE CONSISTING OF JT.DIRECTOR (EXTN.), COFFEE BOARD, KALPETTA, DR.RAJENDRAN, RARS, AMBALAVAYAL, THE PRINCIPAL AGRICULTURAL OFFICER, WAYANAD AND GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, MUTTIL PURSUANT TO DIRECTION ISSUED BY THE DISTRICT COLLECTOR, WAYANAD VIDE ORDER DATED 11.1.2007.

EXT.P9 - TRUE COPY OF THE RETURN FILED FOR AGRICULTURAL INCOME TAX FOR THE YEAR 2004-2005.

EXT.P10 - TRUE COPY OF THE RETURN FILED FOR AGRICULTURAL INCOME TAX FOR THE YEAR 2005-2006.

EXT.P11 - TRUE COPY OF THE CERTIFICATE DATED 26.2.2007 ISSUED BY THE VILLAGE OFFICER, MUTTIL SOUTH CONTAINING DETAILS OF PAYMENT OF PLANTATION TAX FOR THE YEARS 2002-2003 TO 2005-2006.

EXT.P12 - TRUE COPY OF THE COMMUNICATION DATED 12.1.2007 ISSUED BY THE CHAIRMAN OF THE COFFEE BOARD TO THE PRINCIPAL SECRETARY, INDUSTRIES AND COMMERCE, GOVT. OF KERALA.

RESPONDENT'S EXHIBIT:-

EXT.R2(a) - TRUE COPY OF THE INSPECTION REPORT OF THE TECHNICAL TEAM.

EXT.R4(a) - TRUE COPY OF THE REPORT SUBMITTED BY THE PROJECT CONSULTANT, KINFRA.

EXT.R4(b) - TRUE COPY OF THE TECHNICAL REPORT.

- TRUE COPY -

K.Padmanabhan Nair,J.

W.P.(C).Nos.798 of 2007-T & 2313 of 2007-A

Dated, this the 30th day of March, 2007

JUDGMENT

The challenge in these two writ petitions is directed against Exhibit P6 order in W.P.(C).No.798 of 2007, by which the Government has accorded administrative sanction to the Industries Department to initiate proceedings under the Land Acquisition Act to acquire 398 acres of land in Muttil South Village of Vythiri Taluk by invoking urgency clause under Section 17(4) of the Land Acquisition Act.

2. The concerned department has not so far issued any notification under Section 4 read with Section 17(4) of the Act. The right of the petitioner to challenge the notification or the urgency clause will arise only when such a notification is issued. So, these writ petitions are premature. Without prejudice to the right of the petitioner to raise any contention, including those raised in these writ petitions, at the appropriate stage in case the competent authority issues a notification under the Land Acquisition Act, these two petitions are closed.

K.Padmanabhan Nair
Judge

vku/-